

Applicant : Don Fishbein  
Serial No.: 10/799,197  
Filed: March 12, 2004  
Page 2

**REMARKS**

Claims 30-45 are pending in the subject application.

**Obviousness Type Double Patenting Rejection**

On page 3 of the March 13, 2006 Final Office Action, the Examiner rejected claims 30-45 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-28 of U.S. Published Application No. US 2004/0235940.

Applicant respectfully points out that U.S. Published Application No. US 2004/0235940 is the publication of the subject application. Applicant understands the above rejection to refer to U.S. Published Application No. US 2004/0171673, the publication of co-pending application U.S. Serial No. 10/799,197, filed March 12, 2004.

Furthermore, on page 4 of the March 13, 2006 Final Office Action, the Examiner rejected claims 30-45 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-20 of U.S. Patent No. 6,576,659.

Even further, on page 4 of the March 13, 2006 Final Office Action, the Examiner rejected claims 30-45 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18-31 of U.S. Patent No. 6,828,313.

Applicant : Don Fishbein  
Serial No.: 10/799,197  
Filed: March 12, 2004  
Page 3

In response, applicant, without conceding the correctness of the Examiner's rejections, attaches a copy of a Terminal Disclaimer in compliance with 37 CFR §1.321(c) as **Exhibit A**. Applicant also attaches the required fee of ONE HUNDRED THIRTY DOLLARS (\$130.00) set forth in 37 CFR §1.20(d). The attached Terminal Disclaimer overcomes the obviousness-type double patenting rejections of claims 30-45 of the subject application over claims 15-28 of U.S. Published Application No. US 2004/0171673; claims 12-20 of U.S. Patent No. 6,576,659; and claims 18-31 of U.S. Patent No. 6,828,313. Accordingly, the obviousness-type double patenting rejections of claims 30-45 should be withdrawn.

### **Conclusion**

In view of applicant's remarks herein, applicant respectfully requests that the Examiner reconsider and withdraw all of the rejections set forth in the March 13, 2006 Final Office Action.


If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorneys invite the Examiner to telephone them at the number provided below.

No fee, other than the enclosed fee of \$130.00 for filing a Terminal Disclaimer, is deemed necessary in connection with the filing of this Communication. However, if any fee is required, authorization is hereby given to charge the amount of any such

Applicant : Don Fishbein  
Serial No.: 10/799,197  
Filed: March 12, 2004  
Page 4


fee to Deposit Account No. 03-3125.

Respectfully submitted,



I hereby certify that this  
correspondence is being deposited  
this date with the U.S. Postal  
Service with sufficient postage as  
first class mail in an envelope  
addressed to:

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

 5/16/06  
John P. White Date  
Reg. No. 28,678  
Gary J. Gershik  
Reg. No. 39,992

John P. White  
Registration No. 28,678  
Gary J. Gershik  
Registration No. 39,992  
Attorneys for Applicant  
Cooper & Dunham LLP  
1185 Avenue of the Americas  
New York, New York 10036  
(212) 278-0400